protection; the company denied negligence and insisted upon the defense of assumption of risk. The trial court held that upon the evidence these questions were for the jury, and there was a verdict for the plaintiff. On motion, a new trial was ordered unless the plaintiff should remit a portion of the damages, and, this being done, judgment was entered which was affirmed by the Supreme Court of the State. 130 Minnesota, 405.

It was conceded that when the injury was received, plaintiff was engaged in work pertaining to the defendant's business as a common carrier in interstate commerce, and that the Federal Act applied. The court recognized that, if assumption of risk by the plaintiff was made out, it would bar recovery under the Act. *Seaboard Air Line Railway* v. *Horton*, 233 U. S. 492. The court charged the jury accordingly, and there was no exception by the defendant to the charge, or request on its part for any additional instructions,—the defendant contenting itself with its motion for dismissal or for a direction of a verdict in its favor. The case, then, is one in which there is no question as to the interpretation of any provision of the Federal Act or as to the definition of legal principle in its application, but simply involves an appreciation of all the facts and admissible inferences in the particular case for the purpose of determining whether there were matters for the consideration of the jury. The state courts, trial and appellate, held that there were. Having regard to the appropriate exercise of the jurisdiction of this court, we should not disturb the decision upon a question of this sort unless error is palpable. The present case is not of this exceptional character, and we confine ourselves to an announcement of our conclusion. *Seaboard Air Line Railway* v. *Padgett*, 236 U. S. 668, 673; *Seaboard Air Line Railway* v. *Koennecke*, 239 U. S. 352, 355.

Judgment affirmed.